

Amendments to the Claims

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

Claims 1-12 (cancelled)

13. (currently amended) An isolated nucleic acid fragment having ~~constitutive promoter activity selected from the group consisting of:~~

- ~~a) an isolated nucleic acid fragment comprising wherein said fragment comprises the nucleic acid sequence of SEQ ID NO:6 or SEQ ID NO:14, SEQ ID NO:15 or SEQ ID NO:16; and~~
- ~~b) an isolated nucleic acid fragment which can hybridize with any of the nucleotide sequences set forth in SEQ ID NO:6 or SEQ ID NO:14 under stringent conditions wherein said stringent conditions comprise washing in 0.1xSSC/0.1% SDS at 65°C.~~

14. (previously presented) A chimeric gene comprising at least one heterologous nucleic acid fragment operably linked to the isolated nucleic acid fragment of claim 13.

15. (previously presented) An expression construct comprising the chimeric gene of claim 14.

16. (previously presented) A plant comprising the chimeric gene of Claim 14.

17. (previously presented) The plant of claim 16 wherein said plant is a monocot selected from the group consisting of corn, rice, wheat, barley and palm.

18. (previously presented) The plant of Claim 16 wherein said plant is a dicot selected from the group consisting of *Arabidopsis*, soybean, oilseed *Brassica*, peanut, sunflower, safflower, cotton, tobacco, tomato, potato, and cocoa.

19. (previously presented) The plant of claim 18 wherein said plant is soybean.

20. (previously presented) Seed of the plant as in any one of Claims 16, 17, 18, or 19 wherein said seed comprises in its genome the chimeric gene of claim 14.

21. (previously presented) A method of expressing at least one heterologous nucleic acid fragment in a plant cell which comprises:

- (a) transforming a plant cell with the chimeric gene of Claim 14;
- (b) growing at least one fertile mature plant from the transformed plant cell of step (a);
- (c) selecting at least one plant containing a transformed plant cell which expresses the heterologous nucleic acid fragment.

22. (previously presented) The method of Claim 21 wherein the plant is a monocot selected from the group consisting of corn, rice, wheat, barley and palm.

23. (previously presented) The method of Claim 21 wherein the plant is a dicot selected from the group consisting of *Arabidopsis*, soybean, oilseed *Brassica*, peanut, sunflower, safflower, cotton, tobacco, tomato, potato, and cocoa.

24. (previously presented) The method of Claim 23 wherein the plant is soybean.

Claims 25-28 (cancelled)